

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Martine Fennelly

App. No. : 10/692,835

Filed : October 23, 2003

For : **RIDING APPARATUS AND
METHOD**

Examiner : Nguyen, Son T.

Group Art Unit: 3643



27299

PATENT TRADEMARK OFFICE

DECLARATION OF MARTINE FENNELLY UNDER 37 C.F.R. § 1.132

I, Martine Fennelly, a resident alien of the United States, hereby declare and state as follows:

1. I am the President and CEO of Fleeceworks, Inc. ("Fleeceworks"), owner and inventor of U.S. Patent Application No. 10/692,835 (the '835 Application from hereon), which describes the claimed proprietary technology as set forth in Claims 1, 19, 29, 32, 43, 53, 60 and 63 discussed subsequently herein (hereinafter the "Fleeceworks Invention"). I have been President and CEO of Fleeceworks or its predecessor companies since October 2003. During that time, I have been involved in the design, development and testing of the products incorporating the Fleeceworks Invention.

2. The Fleeceworks Invention is included or used in the following products: "Perfect Balance Pad", hereafter referred to as "PBP", as well as "Perfect Balance Half-pad", the "Showhunter" (also with the Perfect Balance System) as well as a recently introduced line of

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wool pads with the Perfect Balance System. See www.fleeceworks.com for additional information.

3. I have more than thirty (30) years experience in equestrian activities and riding, and have extensive knowledge of other equestrian products in the marketplace.

4. The PBP identified in Par. 2 above correlate to at least the currently pending Independent Claims 1, 19, 29, 32, 43, 53, 60 and 63 of the '835 Application in the manner demonstrated below.

5. The following tables a. – h. compare each of Independent Claims of the '835 Application to the PBP Product.

a. Independent Claim 1

Claim Recitation	"PBP" Product
1. Saddle pad apparatus adapted to support a saddle while maintaining substantially unimpeded movement of the spinal column of a living subject, comprising	The PBP Product is adapted to support a saddle while maintaining substantially unimpeded movement of the spinal column of an equine.
a first plurality of pads disposed laterally to one side of said spine and	The PBP Product has, as one of its configurations, a first plurality of pads disposed laterally to one side of the spine.
a second plurality of pads disposed laterally to the other side of said spine	The PBP Product has, as one of its configurations, a second plurality of pads disposed laterally to the other side of the spine.
so that said first and second plurality of pads straddle said spinal column and are sufficiently distant therefrom so as not to impede movement of the spinal column of said living subject,	The first and second plurality of pads of the PBP Product straddles the spinal column and are sufficiently distant therefrom so as not to impede movement of the spinal column of the equine.
each of said pads being adapted to individually cooperate with a specific feature of the anatomy of the living subject.	Each of the pads on the PBP Product are adapted to individually cooperate with a specific feature of the anatomy of the equine.

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b. Independent Claim 19

Claim Recitation	"PBP" Product
19. Saddle pad apparatus adapted to support a saddle on a living subject, comprising:	The PBP Product is adapted to support a saddle on a living subject.
a plurality of pads that distribute load from said saddle substantially evenly on said living subject over only a plurality of non-contiguous regions of said living subject's anatomy	The PBP Product comprises a plurality of pads that distribute the load substantially evenly on the equine over only a plurality of non-contiguous regions of the equine's anatomy.
such that during riding said saddle is substantially stable around a rotational axis transverse to the longitudinal axis of the spinal column of said subject.	The PBP Product distributes the load on the equine such that during riding the saddle is substantially stable around a rotational axis transverse to the longitudinal axis of the spinal column of the equine.

c. Independent Claim 29

Claim Recitation	"PBP" Product
29. A saddle pad adapted for use with a saddle on an equine, comprising:	The PBP Product is adapted for use with a saddle on an equine.
first and second substantially flexible elements having roughly the same shape,	The PBP Product comprises first and second substantially flexible elements having roughly the same shape.
said first and second elements being bound together in at least a plurality of locations along their periphery,	The first and second elements of the PBP Product are bound together in at least a plurality of locations along their periphery.
said first element being in direct contact with the skin of said equine; and	The PBP Product first element is in direct contact with the skin of the equine.
a plurality of compressible foam pad elements disposed between said first and second flexibly elements,	The PBP Product comprises a plurality of compressible foam pad elements disposed between the first and second flexibly elements.
said pad elements straddling the spine of said equine and being disposed within said saddle pad and sufficiently distant from said spine such that the movement of the spine of said equine is substantially unimpeded by said saddle and said pad elements during riding,	The PBP Product pad elements straddle the spine of the equine and are disposed within the saddle pad and sufficiently distant from the spine such that the movement of the spine of the equine is substantially unimpeded by the saddle and the pad elements during riding.
wherein substantial weight redistribution of said saddle in a front-back direction is frustrated by said pad elements; and	Substantial weight redistribution of the saddle in a front-back direction is frustrated by the pad elements of the PBP Product comprises.
wherein said unimpeded spine movement, said frustration of redistribution, and said first flexible element cooperate to provide reduced discomfort for said equine during said riding.	The unimpeded spine movement, the frustration of redistribution, and the first flexible element cooperate to provide reduced discomfort for the equine during riding with the PBP Product.

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d. Independent Claim 32

Claim Recitation	"PBP" Product
32. A saddle pad adapted for use, with a saddle, on an equine, comprising:	The PBP Product comprises a saddle pad adapted for use, with a saddle, on an equine.
first and second substantially flexible elements having roughly the same shape,	The PBP Product comprises first and second substantially flexible elements having roughly the same shape.
said first and second elements being bound together in at least a plurality of locations along their periphery,	The first and second elements of the PBP Product are bound together in at least a plurality of locations along their periphery.
said first element being in direct contact with the skin of said equine;	The first element is in direct contact with the skin of the equine in the PBP Product.
a plurality of compressible foam pad elements disposed between said first and second flexible elements,	The PBP Product comprises a plurality of compressible foam pad elements disposed between the first and second flexible elements.
a first portion of said plurality of pad elements having a first shape and a second portion of said plurality of said pad elements having a second shape,	A first portion of the plurality of pad elements have a first shape and a second portion of the plurality of the pad elements have a second shape on the PBP Product.
said pad elements straddling the spine of said equine and being disposed within said saddle pad and sufficiently distant from said spine such that the movement of the spine of said equine is substantially unimpeded by said saddle and said pad elements during riding,	The PBP Product pad elements straddle the spine of the equine and are disposed within the saddle pad and sufficiently distant from said spine such that the movement of the spine of the equine is substantially unimpeded by the saddle and the pad elements during riding.
first and second restraining straps affixed to at least said second flexible element, said straps each being adapted for substantially concealed tethering to said saddle; and	The PBP Product comprises first and second restraining straps affixed to the second flexible element. The straps are each adapted for substantially concealing tethering to the saddle.
at least one peripheral ridge disposed substantially along a front or back periphery of said first and second elements,	The PBP Product comprises at least one peripheral ridge disposed substantially along a front or back periphery of the first and second elements.
said peripheral ridge cooperating with an edge of said saddle to substantially frustrate relative motion between said saddle pad and said saddle in at least one direction during riding;	The PBP Product peripheral ridge cooperates with an edge of the saddle to substantially frustrate relative motion between the saddle pad and the saddle in at least one direction during riding.

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Claim Recitation	"PBP" Product
wherein said pad elements having said first shape are adapted to interface with gaps formed in the withers region of said animal, whereas said pad elements having said second shape are adapted to interface with gaps formed in the region of the animal directly under a rear portion of said saddle.	The pad elements of the PBP Product that have the first shape are adapted to interface with gaps formed in the withers region of the animal, whereas the pad elements having the second shape are adapted to interface with gaps formed in the region of the animal directly under a rear portion of the saddle.

e. Independent Claim 43

Claim Recitation	"PBP" Product
43. Tilt-inhibiting saddle pad apparatus, comprising:	The PBP Product comprises a tilt-inhibiting saddle pad apparatus.
a body element having a plurality of pockets formed therein;	The PBP Product comprises a body element having a plurality of pockets formed therein.
a plurality of pad elements disposed within respective ones of said pockets; and	The PBP Product comprises a plurality of pad elements disposed within respective ones of the pockets.
a contour element disposed within a respective one of said pockets,	The PBP Product comprises a contour element disposed within a respective one of the pockets.
said contour element having physical properties adapted to cooperate with said pad elements and the anatomy of an animal on which said pad apparatus and a saddle are disposed to maintain said saddle in a substantially constant orientation with respect to said animal.	The contour element of the PBP Product has physical properties adapted to cooperate with the pad elements and the anatomy of an animal on which the pad apparatus and a saddle are disposed to maintain the saddle in a substantially constant orientation with respect to the animal.

f. Independent Claim 53

Claim Recitation	"PBP" Product
53. A pad element adapted for use in a saddle pad,	The PBP Product comprises a pad element adapted for use in a saddle pad.
wherein said pad element is formed from a substantially resilient material and is adapted for selective removal from said saddle pad by a user; and	The PBP Product pad element is formed from a substantially resilient material and is adapted for selective removal from the saddle pad by a user.
wherein said pad element is particularly shaped to substantially accommodate a particular withers region artifact on the anatomy of an animal on which said pad element and saddle pad is utilized.	The PBP Product pad element is particularly shaped to substantially accommodate a particular withers region artifact on the anatomy of an animal on which the pad element and saddle pad is utilized.

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g. Independent Claim 60

Claim Recitation	"PBP" Product
60. Apparatus adapted for use on high-withered animals, comprising:	The PBP Product is adapted for use on high-withered animals.
a substantially flexible pad having a plurality of features adapted to capture respective ones of pad elements;	The PBP Product comprises a substantially flexible pad having a plurality of features adapted to capture respective ones of pad elements.
a plurality of pad elements captured by respective ones of said features;	The PBP Product comprises a plurality of pad elements captured by respective ones of the features.
wherein said pad elements and said pad cooperatively form a raised feature element to raise a frontal portion of a saddle disposed over top of said pad element with respect to a withers region in order to mitigate tilting or rocking of the saddle.	The PBP Product pad elements and pad cooperatively form a raised feature element to raise a frontal portion of a saddle disposed over top of the pad element with respect to a withers region in order to mitigate tilting or rocking of the saddle.

h. Independent Claim 63

Claim Recitation	"PBP" Product
63. A coordinated riding system for use on an animal, comprising:	The PBP Product comprises a coordinated riding system for use on an animal.
a pad retaining structure;	The PBP Product comprises a pad retaining structure.
a plurality of pad elements that straddle the spinal column and are sufficiently distant from a spinal column of said animal so as to not impede movement thereof during animal ambulation,	The PBP Product comprises a plurality of pad elements that straddle the spinal column and are sufficiently distant from a spinal column of said animal so as to not impede movement thereof during animal ambulation.
said plurality of pad elements being retained by said structure and adapted to provide a substantially uniform distribution of pressure and withers support; and	The PBP Product plurality of pad elements are retained by the structure and adapted to provide a substantially uniform distribution of pressure and withers support.
an interface element disposed between said animal and said pad elements,	The PBP Product comprises an interface element disposed between the animal and the pad elements.
said interface element being adapted to provide substantial pressure dissipation, moisture dissipation, and thermal dissipation.	The PBP Product interface element is adapted to provide substantial pressure dissipation, moisture dissipation, and thermal dissipation.

6. I have complete access to and personal knowledge of Fleecework's confidential sales information related to the PBP Product.

7. I have read the '835 Application.

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8. I have been asked to submit this declaration to demonstrate the commercial success of the PBP Product.

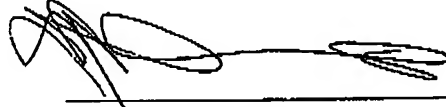
9. In 2004, Fleeceworks began full distribution of the PBP Product, which is used in accordance with the teachings of the '835 Application, and specifically the various claimed inventions as set forth in Par. 5 above.

10. During the fiscal year of 2004, the first year in which the PBP Product was sold, approximately 928 units incorporating the Fleeceworks Invention were sold. This resulted in total first year sales of approximately \$70,000. The following year (2005), 2,764 units incorporating the Fleeceworks Invention were sold resulting in annual 2005 sales of approximately \$205,500, resulting in nearly a 200% year-over-year growth in the sales of the PBP product. As reference for comparison, Fleeceworks most popular other saddle pad product (not a PBP product) for years 2004 and 2005 (the Halfpad with Wither Relief) sold 3,472 units in 2004 and 4,073 units in 2005, resulting in only a modest year over year growth of 17%. Hence, the PBP Product showed dramatically higher rates of sales increase over its initial years than existing (non-PBP) pad products. The undersigned attributes this great increase in sales directly to the features described above.

11. Exhibit I hereto provide a sampling of anecdotal evidence obtained by the undersigned relating to the ability of the PBP Product to satisfy needs and address applications which other prior art products do not address including, *inter alia*, "high withered" animals, and animals with undeveloped topline and various saddle fit problems.

12. All statements made herein of my own knowledge are true, and all statements made on information and beliefs are believed to be true. These statements were made with the knowledge that willful false statements and the like so made are punishable by fine or

imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.



Martine Fennelly
Inventor of '835 Application, and
President/CEO - Fleeceworks, Inc.

DATE: March 13, 2006

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EXHIBIT I

YAHOO! MAIL

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Date: Wed, 22 Jun 2005 12:41:44 +1000

From: [REDACTED]

To: information@fleeceworks.com

Subject: Perfect Balance Pad Query

Hi,

I'm writing in regards to the Perfect Balance Pad. I have been advised by a saddle-fitter in Melbourne, Australia that the Perfect Balance Pad would be ideal for my horse as he is 20 yrs old and is getting a bit of a sunken back and has a high wither.

I was wondering where I can purchase one of these saddle pads in Australia (i.e. do you have distributors in Australia) and whether the inserts come with the saddle blanket or not.

Also, if I were to order one from you, how much would it approximately cost to get the saddle blanket and full inserts (i.e. my saddle needs to be lifted at the front and at the back) sent to Melbourne, Australia?

If you could let me know the above, it would be geratly appreciated.

Kind Regards,

[REDACTED]

YAHOO! MAIL

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Date: Sat, 06 Aug 2005 16:41:21 -0700

From: [REDACTED]

Subject:

To: information@fleeceworks.com

Hello from Tucson, Az. I just requested a catalog of your products. I'm interested in your half pad with inserts to lift the front of my wintec dressage saddle on my slightly downhill morgan mare. The retail shops you list for Az. are a good distance from where I live. Could you please gift me a list of catalog companies who carry your saddle pads.

My e-mail address is [REDACTED] I manage a small gift shop for San Xavier Mission here in Tucson.

My husband and I delivered a horse to California this past week. One highlight of the trip, was to see Debbie Hernandez works her horses. She has two (or more) of your pads which she highly recommends. [REDACTED]

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YAHOO! MAIL

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From:

To: information@fleeceworks.com

Subject:

Date: Fri, 11 Nov 2005 07:27:13 -0800

Hello,

I need a saddle pad that will raise the front of my All Purpose Bates saddle since it sits a bit low in the front. I thought that your company offered a pad that had inserts to achieve balance in the saddles position with pockets for "lift pads at the front and rearer of the saddle pad. I didn't see anythinkg like that on your website.

Thank you for any help,

[REDACTED]
Santa Barbara, CA

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YAHOO! MAIL

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Date: Thu, 10 Nov 2005 06:01:31 -0600 (GMT-06:00)**From:** [REDACTED]**To:** information@fleeceworks.com**Subject:** saddle pad

I have a horse who is extremely difficult to fit a saddle to and after having had 2 "custom" saddles made that don't fit properly., I am distrusting of saddle makers and don't want to go to the expense of getting yet another saddle. I currently am using a 1/2 sheep skin pad to cushion his back but would prefer a full close contact pad like your show hunter or field hunter. I like the idea of the perfect balance system but my saddle is an 18 1/2 " show jumping saddle and I wonder if the system could be put into a field hunter pad. If so, I assume the best thing to do would be to get a pad locally to be sure that it fits with my saddle and then send it to you to have it retro fitted. Would this be possible? Thanks, [REDACTED]